

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN

In The Matter of:

City of Detroit, Michigan

Debtor(s)
_____ /

Chapter 9

13-53846-swr

Judge Rhodes

**MOTION FOR RELIEF FROM AUTOMATIC STAY & TO WAIVE
THE PROVISIONS OF F.R.B.P.4001(a)(3) AS TO U.S. BANK
NATIONAL ASSOCIATION AS SERVICER FOR MICHIGAN
STATE HOUSING DEVELOPMENT AUTHORITY**

NOW COMES U.S. Bank National Association as servicer for Michigan State Housing Development Authority, Movant, through its authorized attorney SCHNIEDERMAN AND SHERMAN PC, and respectfully represents to the Court as follows:

1. That Movant is the holder of a mortgage on separate and distinct parcels of property commonly known as 18816 HEALY, DETROIT, MI 48234, (hereinafter "Property 1") and 1303 18TH STREET, DETROIT, MI 48216 (hereinafter "Property 2"). Property 1 redacted documents: Recorded Mortgage, Assignment, and Note attached as **Exhibits B, C, and D** respectively. Property 2 redacted documents: Recorded Mortgage, Assignment, and Note attached as **Exhibits E, F, and G respectively;**

2. That the Debtor filed the instant case on July 18, 2013;
3. That pursuant to 11 U.S.C. § 362(d)(1), upon the request of a party in interest, the court shall grant relief from the Stay enforced pursuant to 11 U.S.C. § 362(a) for cause, including lack of adequate protection of such party in interest;
4. That pursuant to 11 U.S.C. § 362(d)(2), upon the request of a party in interest, the court shall grant relief from the Stay enforced pursuant to 11 U.S.C. § 362(a) if the debtor does not have an equity in such property and such property is not necessary to an effective reorganization;
5. That pursuant to 11 U.S.C. § 922(b), 11 U.S.C. § 362(d)(1) applies to the Stay provided by 11 U.S.C. § 922(a), therefore, upon the request of a party in interest, the court shall grant relief from the Stay enforced pursuant to 11 U.S.C. § 922(a) for cause, including lack of adequate protection of such party in interest.
6. That pursuant to 11 U.S.C. § 922(b), 11 U.S.C. § 362(d)(2) applies to the Stay provided by 11 U.S.C. § 922(a). Therefore, upon the request of a party in interest, the court shall grant relief from the Stay enforced pursuant to 11 U.S.C. § 922(a) if the debtor does not have an equity in such property and such property is not necessary to an effective reorganization;

7. That pursuant to paragraph 4 of this Court's Order Pursuant to Section 105(a) of the Bankruptcy Code Extending the Chapter 9 Stay to Certain (A) State Entities, (B) Non Officer Employees and (C) Agents and Representatives of the Debtor entered July 25, 2013 at Docket Number 166, this Motion is proper pursuant to 11 U.S.C. § 362(d)-(g).

8. That the Debtor is the holder of mortgages on Property 1 and Property 2 that are junior in priority to those of Movant. Property 1 redacted documents: Mortgage and Assignment attached as **Exhibits H and I** respectively. Property 2 redacted documents: Mortgage attached as **Exhibit J**;

9. That as a result of the default in payments under the promissory notes held by Movant, a material default has occurred, which is prejudicial to Movant's rights; that Mortgagor 1 for property 1 is due for the June 1, 2013 installment payment, and subsequent installments; that Mortgagor 2 for property 2 is due for the January 1, 2013 installment payment, and subsequent installments;

10. Due to the default referenced in paragraph 9, Movant seeks to begin foreclosure by advertisement of the mortgages held by Movant pursuant to the relevant Michigan statutes, but is currently stayed from

proceeding to do so due to the liens held by the City referenced in paragraph 8.

11. That the total indebtedness owed to Movant relating to Property 1, including accrued interest, escrow, and attorney fees is approximately \$35,668.76;

12. That the fair market value of Property 1 is estimated to be \$25,410.00, as indicated by the State Equalized Value; that additional lien(s) exist and are as follows: \$1,983.00 held by the City of Detroit, that upon review of this matter, to the best of the Movant's knowledge and belief, there are no other lien holders with respect to the subject property. State Equalized Value attached as **Exhibit K**;

13. That the total indebtedness owed to Movant relating to Property 2, including accrued interest, escrow, and attorney fees is approximately \$56,773.57;

14. That the fair market value of Property 2 is estimated to be \$38,858.00, as indicated by the State Equalized Value; that additional lien(s) exist and are as follows: \$3,410.00 held by the City of Detroit, that upon review of this matter, to the best of the Movant's knowledge and belief, there are no other lien holders with respect to the subject property. State Equalized Value attached as **Exhibit L**;

15. That said properties are of no value to the bankruptcy estate; that Debtor has no equity in the subject properties and that Movant lacks adequate protection;

16. That Movant is not seeking a monetary award by filing this Motion;

17. That Movant is entitled to the relief sought pursuant to 11 U.S.C. § 361; 11 U.S.C. § 362; 11 U.S.C. § 922; and this Honorable Court's Order Pursuant to Section 105(a) of the Bankruptcy Code Extending the Chapter 9 Stay to Certain (A) State Entities, (B) Non Officer Employees and (C) Agents and Representatives of the Debtor entered July 25, 2013 at Docket Number 166.

WHEREFORE, Movant requests that it be granted immediate relief from the Automatic Stay as regards the aforementioned Properties; that Movant be permitted to enforce its contractual rights pursuant to state law; that F.R.B.P.4001 (a)(3), which provides that the Automatic Stay shall remain in effect for a period of ten days from date of an Order Granting a Motion for Relief from Stay, be waived.

SCHNEIDERMAN & SHERMAN, P.C.

Date:10/07/13

By: /S/ Brett A. Border
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State Housing Development
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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN

In The Matter of:

City of Detroit, Michigan

Chapter 9
13-53846-swr
Judge Rhodes

Debtor(s)
_____ /

**ORDER GRANTING RELIEF FROM AUTOMATIC STAY &
WAIVING THE PROVISIONS OF F.R.B.P.4001(a)(3) AS TO U.S.
BANK NATIONAL ASSOCIATION AS SERVICER FOR MICHIGAN
STATE HOUSING DEVELOPMENT AUTHORITY**

This matter having come before this Court on the Motion of U.S. Bank National Association as servicer for Michigan State Housing Development Authority ("Creditor"), by and through its attorneys, Schneiderman & Sherman, P.C., for relief from the Automatic Stay; all parties to said Motion having been served with a copy of Creditor's Motion and proposed Order:

IT IS HEREBY ORDERED that the Automatic Stay is terminated to allow Creditor, its successors or assigns to foreclose on the property known as 18816 HEALY, DETROIT, MI 48234, legal description LOT 124, O'CONNOR'S SUBDIVISION, AS RECORDED IN LIBER 33, PAGE 61, OF PLATS, WAYNE COUNTY RECORDS, for the reasons set forth in Creditor's Motion; that Creditor is permitted to dispose of the property in accordance with the terms of its note and security agreement and in accordance with federal and state law; that F.R.B.P.4001(a)(3), is waived; that this order shall be served on the Debtor and all others with an interest in the subject property. This order shall be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Bankruptcy Code.

IT IS FURTHER ORDERED that the Automatic Stay is terminated to allow Creditor, its successors or assigns to foreclose on the property known as 1303 18TH STREET, DETROIT, MI 48216, legal description LOT 127 OF PLAT OF SUBDIVISION OF PART OF PRIVATE CLAIM 473, KNOWN AS STANTON FARM, IN DEED, LIBER 47, PAGES 558 AND 559 OF PLATS WAYNE COUNTY RECORDS, for the reasons set forth in Creditor's Motion; that Creditor is permitted to dispose of the property in accordance with the terms of its note and security agreement and in accordance with federal and state law; that F.R.B.P.4001(a)(3), is waived; that this order shall be served on the Debtor and all others with an interest in the subject property. This order shall be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Bankruptcy Code.

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN

In The Matter of:

City of Detroit, Michigan

Chapter 9
13-53846-swr
Judge Rhodes

STATE OF MICHIGAN
COUNTY OF OAKLAND

PROOF OF SERVICE

I hereby certify that on the 7th day of October, 2013, I electronically filed the foregoing Motion for Relief from Stay, Notice of Motion, and Proposed Order with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Eric D. Carlson
150 West Jefferson
Suite 2500
Detroit, MI 48226

Bruce Bennett
555 S. Flower St.
50th Floor
Los Angeles, CA 90071

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150 W. Jefferson
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Detroit, MI 48226

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Suite 2500
Detroit, MI 48226

Heather Lennox
222 East 41st Street

Marc N. Swanson

New York, NY 10017

150 W. Jefferson
Suite 2500
Detroit, MI 48226

And I hereby certify that I have mailed by United States Postal Service the Motion for Relief from Stay, Notice of Motion, and Proposed Order to the following non-ECF participants:

WAYNE COUNTY TREASURER	Resident
400 Monroe	18816 Healy
Fifth Floor	Detroit, MI 48234
Detroit, MI 48226	

City of Detroit	Resident
2 Woodward Ave.	1303 18 th Street
Suite 1126	Detroit, MI 48216
Detroit, MI 48226	

Execution on: 10/07/13

By: /S/ Brett A. Border
Brett A. Border (P65534)
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Association as servicer for Michigan
State Housing Development
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